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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/746,901	11/18/96	ELLIOTT I	MCIC-105/00U

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EXAMINER

NGUYEN, S

ART UNIT PAPER NUMBER

2731

DATE MAILED: 03/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

190

Office Action Summary

Application No.
08/746,901

Applicant(s)

Elliot

Examiner

Steven Nguyen

Group Art Unit
2731



☒ Responsive to communication(s) filed on amendment A

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 19-30 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 19-30 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 8

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment A filed on 10/18/99. Claims 1-18 have been canceled and claims 19-30 are pending in the application.

Specification

2. Due to the numerous changes to the specification as requested by the Amendment A filed 10/18/1999, Those changes have not been amended. A substitute specification or pages of the specification with such changes is/are required.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

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3. Claims 20 and 26 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 24 and 30. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1789) in view of Kubler et al (USP 5726948).

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Regarding claims 19 and 25, Yang discloses a plurality of gateways and call router which connects the switched communication network and the packet network, a logic which transmits a query message which includes a call type of service to the directory service to obtain a plurality of gateways that match the predefined call service criteria and an identifier of the call to an associated IP address and routing the call to the selected gateways (Page 1-5, Yang discloses a plurality of gateways and a call router connected between the telephone network and computer network to allow a caller to communicate with the other caller in which the call router used to route a call from source to destination and the gateways used to perform the protocol converter such as convert analog voice to data voice to transmit in the Internet etc . . . When the first server which generates a query message to a directory server to obtain at least one of plurality of gateways which have an IP address corresponding to a telephone number of a destination). Yang fails to disclose querying each of the plurality of gateways to determine a network topology to service a call; ranking the plurality of gateways based on the network topology and the call service criteria. However, in the same field of endeavor, Kubler teaches a method of receiving a call type of service; and querying each of the pluralities of gateways to determine a network topology "low cost routing"; ranking the plurality of gateways according to the network topology "low cost routing" and the service call criteria (Fig 55b, discloses an access device "5587" receives a destination's telephone number from the source device "5583", the access device generates a query message and transmits to at least one of a plurality of gateways "5589" to determine the network topology such as delay, least cost routing etc... and selecting one of the

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gateways which has the best network topology to route the call via Internet "5598" for example, transmit a test signal from the call router "5587" to a gateway "5589" to determine the time delay, See Fig 59-63, Col 85, lines 15 to col 86, lines 58, col 87, lines 43-45, 65-68 to col 88, lines 47, col 91, lines 29-53, col 94, lines 33-42, col 95, lines 6, col 100, lines 8-18, and col 101, lines 50 to col 102, lines 25; the call server transmits a query message to a plurality of call servers for determining a network topology such as low cost routing and ranking it according to the cost and selecting one of the lowest costs to route a call, wherein the call server which is nearest to the destination number being a lowest cost).

Since, Yang suggests that a delay of Internet must be taken into consideration. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply the teaching of Kubler et al such as a call router generates a query message to the gateways which meet the requirement of the call and obtain a low cost to transmit the data from a source node to a destination node into the method of Yang. The motivation would have been to reduce the cost of transmitting a data. Furthermore, it would have been obvious to one ordinary skill in the art to generate a query message from a call router to a plurality of gateways and ranking them according to result. "Official Notice" is taken that both the concept and the advantages of using a PING, trace, echo and latency are well known in the art to determine a network topology. For example the ping command allows the system to obtain the end to end delay time which a test signal is transmitted from the call router to the plurality of gateways and using the time to sort the gateways according to the standing of results.

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Regarding claims 20-24 and 26-30, recognizing the use of Internet protocol would have been explicit to one of ordinary skill in the art such as ping, trace route, packet latency and echo packet to debug, obtain the number of hops which data packet must be travel from a source to a destination node etc . . .

Response to Arguments

6. Applicant's arguments filed 11/18/99 have been fully considered but they are not persuasive.

Regarding claims 25-30, the applicant states that Yang fails to translate a destination telephone number of user at the server. However, Yang is clearly disclosed in a directory server in page 4, The main philosophy behind the INETPhone service is to reduce a long distance phone call into two local calls and an Internet connection. Therefore, an INETPhone server will always be identified by its IP address with its local area code of the phone number (also possibly with its sub-regional number). In order to support a dynamic configuration of INETPhone servers on the Internet, a Directory Server(s) (DS) will be required to map between IP address and area code of INETPhone servers, which in some sense, is similar to the functions of a Name Server (such as the BIND [7]). After an INETPhone server is installed on the Internet, it needs to register itself with a DS. The mapping information at DS will be disseminated to INETPhone servers for the search of a remote server in response to a requested phone call. Local cache of mapping information may also be maintained at INETPhone servers to alleviate communications between

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INETPhone servers and Directory Server(s). So, user A dials the telephone number of user B; at a server A, a query message was generated and transmitted to directory server for mapping the Internet address of server B and user B telephone number. Then using IP address of server B to establish a connection via Internet. Server B calls user B.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wise (USP 5884262) discloses a method and apparatus which comprise a call router for receiving a destination's telephone number and transmitting a query message to a ISCP to obtain a IP address which associated to the destination telephone number. Then, using this IP address for routing a call to the destination gateway, which dials, a destination telephone number.

Guy (USP 5940479) discloses a method and apparatus which comprise a call router for receiving a destination telephone number, transmitting a query message to a directory service to obtain a IP address of the gateways that serves this destination telephone. Then, the gateway dials the destination telephone number via PSTN.

Wegner (USP 5712907) discloses a method for selecting one of plurality of gateways which have a least cost routing.

Ranganathan (USP 5931961) discloses a method of determining a topology network by using echo packet etc...

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Mckee (USP 5477531) discloses a method of determining a topology network by using echo packet, ping, latency etc...

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Nguyen whose telephone number is (703) 308-8848. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703) 305-4378.

The fax phone number for this group is (703) 305-3988.

Any inquiry of a general nature or relating to the status of this application or proceeding


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should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Steven Nguyen
Art Unit 2731
February 5, 2000


CHI H. PHAM
SUPERVISORY PATENT EXAMINER
GROUP 2700
2/9/00